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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 88**

**[Docket ID: DOD-2013-OS-0236]**

**RIN 0790-AJ17**

**Transition Assistance Program (TAP) for Military Personnel**

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes policy, assigns responsibilities, and prescribes procedures for administration of the DoD Transition Assistance Program (TAP). The goal of TAP is to prepare all eligible members of the Military Services for a transition to civilian life, including preparing them to meet Career Readiness Standards (CRS). The TAP provides information and training to ensure Service members leaving Active Duty and eligible Reserve Component Service members being released from active duty are prepared for their next step in life whether pursuing additional education, finding a job in the public or private sector, starting their own business or other form of self-employment, or returning to school or an existing job. Service members receive training to meet CRS through the Transition GPS (Goals, Plans, Success) curricula, including a core curricula and individual tracks focused on Accessing Higher Education, Career Technical Training, and Entrepreneurship.

All Service members who are separating, retiring, or being released from a period of 180 days or more of continuous Active Duty must complete all mandatory requirements of the Veterans Opportunity to Work (VOW) Act, which includes pre-separation counseling to develop

an Individual Transition Plan (ITP) and identify their career planning needs; attend the Department of Veterans Affairs (VA) Benefits Briefings I and II to understand what VA benefits the Service member earned, how to apply for them, and leverage them for a positive economic outcome; and attend the Department of Labor Employment Workshop (DOLEW), which focuses on the mechanics of resume writing, networking, job search skills, interview skills, and labor market research.

**DATES:** *Effective date:* This rule is effective September 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ron Horne, 703-614-8631.

**SUPPLEMENTARY INFORMATION:**

The TAP prepares all eligible members of the Military Services for a transition to civilian life; enables eligible Service members to meet the CRS as required by this rule; and is the overarching program that provides transition assistance, information, training, and services to eligible transitioning Service members to prepare them to be career ready when they transition back to civilian life.

Spouses of eligible Service members are entitled to the DOLEW, job placement counseling, DoD/VA-administered survivor information, financial planning assistance, transition plan assistance, VA-administered home loan services, housing assistance benefits information, and counseling on responsible borrowing practices. Dependents of eligible Service members are entitled to career change counseling and information on suicide prevention.

These revisions will:

- institutionalize the implementation of the VOW Act of 2011,

- require mandatory participation in the Department of Labor (DOL) Employment Workshop (EW),
- implement the Transition GPS (Goals, Plans, Success) curriculum,
- require development of an Individual Transition Plan (ITP),
- enhance tracking of attendance at TAP events,
- implement of mandatory Career Readiness Standards (CRS) for separating Service members, and
- incorporate a CAPSTONE event to document transition readiness and reinforce Commanding Officer accountability and support for the needs of individual Service members.

This rule improves the process of conducting transition services for eligible separating Service members across the Military Services and establishes the data collection foundation to build short-, medium-, and long-term program outcomes.

In August 2011, President Obama announced his comprehensive plan to ensure that all of America's Post 9/11 Veterans have the support they need and deserve when they leave the military, look for a job, and enter the civilian workforce. A key part of the President's plan was his call for a "career-ready military." Specifically, he directed DoD and Department of Veterans Affairs (VA) to work closely with other federal agencies and the President's economic and domestic policy teams to lead a Veterans Employment Initiative Task Force to develop a new training and services delivery model to help strengthen the transition readiness of Service members from military to civilian life. Shortly thereafter, Congress passed and the President signed the "VOW to Hire Heroes Act of 2011," Public Law 112-56, 201-265, 125 Stat. 715 ("VOW Act"), which included steps to improve the existing TAP for Service

members. Among other things, the “VOW Act” made participation in several components of TAP mandatory for all Service members (except in certain limited circumstances).

The task force delivered its initial recommendations to the President in December 2011, which required implementation of procedures to document Service member participation, and to demonstrate Military Service compliance with 10 U.S.C. Chapter 58 requirements. The Veterans Opportunity to Work (VOW) Act of 2011 mandated transitioning Service members participation in receiving counseling and training on VA Benefits. VA developed VA Benefits I and II Briefings to meet this mandate. The VOW Act also mandated transitioning Service members to received counseling and informed of services regarding employment assistance. The Department of Labor revised its’ curriculum to meet this mandate with the Department of Labor Employment Workshop. The VOW requirements have been codified in 10 U.S.C. Chapter 58 and attendance at all Transition GPS curricula is now documented.

The redesigned TAP was developed around four core recommendations:

**Adopt standards of career readiness for transitioning Service members.** Service members should leave the military having met clearly defined standards of career readiness.

**Implement a revamped TAP curriculum.** Service members should be provided with a set of value-added, individually tailored training programs and services to equip them with the set of tools they need to pursue their post-military goals successfully.

**Implement a “CAPSTONE”.** Service members should be afforded the opportunity, shortly before they depart the military, to review and verify that they have met the CRS and received the services they desire and to be steered to the resources and benefits available to them as Veterans.

**Implement a “Military Life Cycle” (MLC) transition model.** Transition preparation for Service members should occur over the entire span of their military careers – not just in the last few months of their military service.

Implementation of these recommendations transforms a Service member’s experience during separating, retiring, demobilizing, or deactivating to make the most informed career decisions by equipping them with the tools they need to make a successful transition.

The rule discusses a redesigned program which implements, the transition-related provisions of the “VOW Act” and recommendations of the Task Force to offer a tailored curriculum providing Service members with useful and quality instruction with connections to the benefits and resources available to them as Veterans. At the heart of the redesign is the new set of CRS. Just as Service members must meet military mission readiness standards while on Active Duty, Service members will meet CRS before their transition to civilian life.

### **Regulatory Impact Analysis**

As part of the regulatory process, DOD is required to develop a regulatory impact analysis (RIA) for rules with costs or benefits exceeding \$100M annually. DOD estimates implementation of this final rule for the Department will have a cost of approximately \$100M annually starting in 2016. DoD assumes that the annual outlays will continue.

#### **I. Alternatives Analysis**

In President Obama’s speech in August of 2011 at the Washington Navy Yard, he used the term ‘Reverse Boot Camp’ to demonstrate his vision for a redesigned TAP to increase the preparedness of Service members to successfully transition from military service to civilian communities. The President’s speech initiated an interagency discussion on an approach to mirror the Military Services’ “basic or initial entry training” programs. This approach would

require the Military Services to devote approximately 9 to 13 weeks, depending on curriculum development, outcome measures, assessments and individual military readiness and cultural differences, to afford Service members the opportunity to use all aspects of a rigorous transition preparation program.

While no cost estimates were conducted, this approach was deemed to be both expensive and potentially jeopardize DoD's ability to maintain mission readiness. Approximately 200,000 - 250,000 Service members leave DoD each year. To concentrate on transition preparation during the last 9 to 13 weeks of an individual's military career would not be workable since mission readiness could not absorb the impact of the void. Additionally, there would be an increased expense required to activate or mobilize Reserve Component or National Guard personnel for the nine to 13 weeks prior to transition. Finally, logistical challenges could result from Service members dealing with TAP requirements while deployed. For example, units scheduled to mobilize would be delayed because a returning unit could occupy facilities (such as billeting, classrooms, and training areas) that the deploying units needed to train and prepare for mobilization.

A second alternative considered was establishment of regional residential transition centers staffed by personnel from all Military Services, the Departments of VA, Labor (DOL), and Homeland Security (U.S. Coast Guard), the U.S. Small Business Administration (SBA), and the OPM. Transitioning Service members would be sent on temporary duty for a period of four to six weeks, 12 months prior to their separation or retirement date to receive transition services. Eligible Reserve Component Service members would be assigned to the centers as a continuation of their demobilization out-processing. The potential costs to build or modify existing facilities, or rent facilities that would meet regional residential transition center

requirements, as well as costs for Service member travel to and from the regional centers, reduced the viability of this approach.

A third, less expensive option would have left the existing TAP program intact without increasing counselor and curriculum facilitation resources. This option would not have accountability systems and procedures to demonstrate compliance with the “VOW Act” that mandates preseparation counseling, attendance at the DOL’s three day Employment Workshop (DOLEW), and attendance at two VA briefings. Due to increasing Veteran unemployment and homeless percentages at the time of the decision, and the rebalancing of the military force, this cost neutral approach would not have the outcome-based capability intended to develop career ready skills in transitioning Service members. This option, which would not have met the requirements of the law, would cost the Military Services approximately \$70M versus the fiscal year 2013 (FY13) \$122M for the implementation of the re-designed TAP.

## **II. Anticipated Costs and Benefits**

The “VOW Act” mandated preseparation counseling, VA Benefits Briefings I and II, and the DOLEW, and these components were implemented on November 21, 2012. On the same day, the “VOW Act” requirements became mandatory; DoD published a policy to make CRS and Commanding Officer verification that Service members are meeting CRS, mandatory. “Vow Act” compliance and CRS must be met by all Service members after they have served 180 days in active duty status. Service members must attend Transition GPS (Goals, Plans, Success) curriculum modules that build career readiness if they cannot meet the CRS on their own. In cases where Service members receive a punitive or Under Other Than Honorable Conditions discharge, Commanding Officers have the discretion of determining participation in the other than mandatory Transition GPS curricula. By policy, all Service members who do

not meet the CRS will receive a warm handover to DOL, VA, or other resources targeted at improving career readiness in the area where the standard was not met.

The entire Transition GPS curriculum is now available online through Joint Knowledge Online (JKO); however, Service members must attend preseparation counseling, VA briefings, and the DOLEW in person. All other curricula can be accessed through the JKO virtual platform. The virtual curriculum (VC) was launched at the beginning of FY14. DoD expected a cost savings in FY14 due to use of the VC but the cost avoidance cannot be calculated, as VC utilization is appropriate on a Service member-by-Service member basis.

Further, resource requirements for DoD become more predictable when transition assistance is provided at pre-determined points throughout the MLC TAP model, mitigating the impacts of “surge” periods when large numbers of Service members separate, demobilize or deactivate.

The FY13 cost to DoD to implement the TAP redesign was \$122M and in FY14 DoD costs were \$85M. The difference is attributed to both implementation costs of the updated program in FY13 and to efficiencies discovered as implementation was completed throughout FY14. These costs represent only the portion of the interagency program that is paid by the DoD. The cost covers Defense civilian and contracted staff (FTEs) salaries and benefits at 206 worldwide locations. Civilian and contract labor account for approximately 88% of total program costs in both fiscal years. The remaining costs include equipment, computers (purchase, maintenance and operations), Information Technology (IT) and architecture, data collection and sharing, web site development, performance evaluation and assessments, curriculum development and modifications, materials (audio-visual, CDs, eNotebooks, handouts, interactive brick and mortar classroom sessions, virtual curriculum, etc.), facilitation



training, research, studies, and surveys. Within DoD, the re-designed TAP capitalized upon existing resources, e.g., use of certified financial planners housed in the Military Services' family centers to conduct financial planning or military education counselors used to conduct the Accessing Higher Education (AHE) track. Other efficiencies include reuse or upgrades to current facilities and classrooms used to deliver legacy TAP. Implementation costs in FY13 included equipping classrooms to allow individual internet access and train-the-trainer workshops to deliver the DoD portions of the Transition GPS curriculum. Examples of efficiencies discovered in FY14 include providing train-the-trainer courses through webinars and savings associated with Service members using the VC.

The DoD provides military spouses the statutory requirements of TAP as prescribed in Title 10, United States Code. Other elements of TAP, prescribed by DoD policy, are available to spouses if resources and space permits. Military spouses can attend the “brick and mortar” Transition GPS curriculum at no cost on a nearby military installation. They can also take the entire Transition GPS curriculum online, virtually, at any time, from anywhere with a computer or laptop for free.

Many Veteran and Military Service Organizations, employers, and local communities provide transition support services to local installations. Installation commanders are strongly encouraged to permit access to Veteran Service Organizations (VSOs) and Military Service Organizations (MSOs) to provide transition assistance-related events and activities in the United States and abroad at no cost to the government. Two memos signed by Secretary of Defense Chuck Hagel reinforce such access. The memos are effective within 60 days of the December

23 signing, and will remain in effect until the changes are codified within DoD.<sup>1</sup> Access to installations is for the purpose of assisting Service members with their post-military disability process and transition resources and services. The costs to VSOs and MSOs would be any costs associated with salaries for paid VSO and MSO personnel. These organizations will pay for any costs associated with travel to and from military installations, as well as any materials they provide to separating Service members and their spouses. Costs to employers and community organizations supporting transition-related events and activities would be similar to those for VSOs and MSOs.

The DoD is dependent upon other federal agencies to deliver the redesigned TAP to transitioning Service members. The VA, DOL, SBA, Department of Education (ED), and Office of Personnel Management (OPM) have proven to be invaluable partners in supporting the Transition GPS curriculum development and delivery, and in providing follow-on services required by a warm handover due to unmet CRS. These interagency partners strongly support TAP governance and performance measurement.

Although DoD cannot estimate the costs for its interagency partners, TAP provides the Service members with resources through the contributions of its interagency partners that should be identified as factors of total program cost. Transition assistance is a comprehensive interagency effort with contributions from every partner leveraged to provide support to the All-Volunteer Force as the Service members prepare to become Veterans. The interagency partners deliver the Transition GPS curriculum and one-on-one services across 206 military installations

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<sup>1</sup> DoD Memos signed 12/23/2014. "Installation Access and Support Services to VA-Recognized Veteran Service Organizations/Military Service Organizations" and "Installation Access and Support Services for Nonprofit Non-Federal Entities"

across the globe. DoD can only speak to TAP costs within the Defense fence line, but can discuss the value provided by interagency partners.

The DOL provides skilled facilitators that deliver the DOLEW, a mandatory element of the Transition GPS standardized curriculum. DOL's American Jobs Centers (AJCs) provide integral employment support to transitioning Service members and transitioned Veterans. The AJCs are identified as resources for the Service members during TAP, which may increase visits from the informed Service members. The AJCs also support warm handovers of Service members who have identified employment as a transition goal on their ITP but do not meet the CRS for employment. DOL also provides input to the TAP interagency working groups and governance boards, and is involved in the data collection, performance measurement, and standardization efforts, all of which represent costs to the organization.

The SBA provides the Transition GPS entrepreneurship track, Boots to Business, to educate transitioning Service members interested in starting their own business about the challenges small businesses face. Upon completing the Boots to Business track, the SBA allows Service members to access the SBA on-line entrepreneurship course, free of charge. The SBA then provides Service members the opportunity to be matched to a successful businessperson as a mentor. This is a tremendous commitment that must create additional costs for the SBA. The SBA offices continue to provide support to Veterans as they pursue business plan development or start up loans; provision of this support is in the SBA's statutory charter, but the increased awareness provided through the Transition GPS curriculum is likely to increase the patronage and represent a cost to SBA. The SBA also provides input to the TAP interagency working groups and governance boards. The SBA is engaged with data collection and sharing efforts to determine program outcomes.

VA provides facilitators who deliver the mandatory VA Benefits Briefings I and II as part of the Transition GPS standardized curriculum required to meet “VOW Act” requirements. The VA facilitators also deliver the two-day track for Career Technical Training that provides instruction to Service members to discern the best choices of career technical training institutions, financial aid, best use of the Post 9/11 GI Bill. Benefits counselors deliver one-on-one benefits counseling on installations, as space permits. As a primary resource for Veterans, VA ensures benefits counselors are able to accept warm handovers of transitioning Service members who do not meet CRS and require VA assistance post-separation. The VA hosts a web portal for connectivity between employers and transitioning Service members, Veterans and their families. VA provides input to the TAP interagency working groups and governance boards, and is involved in the data collection and sharing efforts to determine program outcomes, all of which represent costs to the organization.

ED serves a unique and highly valued role in the interagency partnership by ensuring the entire curriculum, both in classroom and virtual platform delivery, is based on adult learning principles. Their consultative role, tapped daily by the interagency partners, is critical to a quality TAP. ED also provides input to the TAP interagency working groups and governance boards and keeps a keen eye toward meaningful TAP outcomes, all of which represent costs to the organization.

The OPM contributes federal employment information and resources to the DOLEW, and enables the connectivity between the VA’s web portal and USA Jobs web sites. The OPM also provides input to the TAP interagency working groups and governance boards and contributes to performance measures.

The costs to DoD's interagency partners were not calculated; implementation of this rule was mandated by the "Vow Act" and costs for all parties are already incurred. The calculated costs to DoD and unmeasured costs to DoD's interagency partners provide significant resources to Service members, resulting in benefits to the Nation.

The benefit of the redesigned TAP to the Service member is increased career readiness to obtain employment, start their own business, or enter career technical training or an institution of higher learning at the point of separation from military service. The legacy, end-of-career TAP is replaced by pre-determined opportunities across the MLC for many transition-related activities to be completed during the normal course of business. Since a direct economic estimate of the value of TAP is difficult for DoD to demonstrate as it would require collection of information from military personnel after they become private citizens, the value of the TAP can be derived by demonstrating qualitatively how Service members value the program and then displaying some changes in economic variables that can be differentiated between Veterans who have access to TAP and non-Veterans who do not have access to the program.

- According to one independent evaluation of the TAP, Service members who had participated in the TAP had, on average, found their first post-military job three weeks sooner than those who did not participate in the TAP.<sup>2</sup>
- An independent survey asked Soldiers who had used the TAP their opinions about the curriculum. The Soldiers reported positive opinions about the usefulness of the TAP.

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<sup>2</sup> Source: Veterans Employment and Training Service (DOL VETS) VETS Fact Sheet 1: Transition Assistance Program.

90% of the Soldiers felt that it was a useful resource in searching for employment and 88% of them would recommend the TAP to a colleague.<sup>3</sup>

According to a curriculum assessment completed at the end of each TAP module, transitioning Service members gave the TAP positive reviews on its usefulness for their job search:

- 92% of reported that they found the learning resources useful, including notes, handouts, and audio-visuals.
- 83 % reported that the modules enhanced their confidence in their own transition planning.
- 81% reported that they now know how to access the necessary resources to find answers to transition questions that may arise in the next several months.
- 79% said that the TAP was beneficial in helping them gain the information and skills they needed better to plan their transition.
- 79% said that they would use what they learned from the TAP in their own transition planning.<sup>4</sup>
- A comparison of unemployment insurance usage suggests that recently separated members of the military (2013 & 2014) were more likely to apply what they learned in the re-designed TAP and were more involved earlier in job training programs than unemployed claimants who did not have military experience (8.5% of UCX claimants versus 5.1% of Military service claimants).<sup>5</sup>

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<sup>3</sup> Source: Faurer, J., Rogers-Brodersen, A. and Bailie, P. (2014). Managing the Re-employment of Military Veterans through the Transition Assistance Program (TAP). *Journal of Business and Economics*. 12 (1), 55-60

<sup>4</sup> Source: Statement of Dr. Susan Kelly Before the House Veterans Affairs Committee Subcommittee on Economic Opportunity (September 17, 2014).

<sup>5</sup> Source: Paul Heaton, RAND Corporation, Why is Veteran Unemployment So High?

- According to the Bureau of Labor Statistics, the unemployment rate for Veterans of the current conflict declined by nearly half from August 2013 to 5.7 percent in January 2016 coinciding with the time period when all Service members were required to take the re-designed TAP.<sup>6</sup>

The TAP also helps mitigate the adjustment costs associated with labor market transition. Military members must prepare for the adjustments associated with losing military benefits (e.g., housing, health care, childcare) to the benefits afforded in private sector or nonmilitary public sector jobs. The TAP addresses this very important aspect based on a regulatory mandate that they attend both the DOLEW and the VA's Veterans Benefits Briefings, and complete a 12-month post-separation financial plan to meet CRS.

The early alignment of military skills with civilian workforce demands and deliberate planning for transition throughout a Service member's career sets the stage for a well-timed flow of Service members to our Nation's labor force. Employers state that transitioning Service members have critical job-related skills, competencies, and qualities including the ability to learn new skills, strong leadership qualities, flexibility to work well in teams or independently, ability to set and achieve goals, recognition of problems and implementation of solutions, and ability to persevere in the face of obstacles. However, application of these skills and attributes must be translated into employer friendly language. The TAP addresses these issues. The VA web portal supports providing private and public sector employers with a direct link to profiles and resumes of separating Service members where employers can recruit from this talent pipeline.

The rule benefits communities across the country. Civilian communities receive more educated, better-trained and more prepared citizens when separating Service members return to

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<sup>6</sup> Source: Bureau of Labor Statistics, Current Population Survey ( February 2016)

communities as Veterans. Service members learn to align their military skills with civilian employment opportunities, which enables the pool of highly trained, adaptable, transitioning Service members a more timely integration into the civilian workforce and local economies. Service members also learn through TAP about the rich suite of resources available to them from the interagency partners and have, for the asking, one-on-one appointments with interagency partner staff, who can provide assistance to Service members and their families both before and after the Service members leave active duty. More specifically, the components of the mandatory CRS target deliberate planning for financial preparedness as well as employment, education, housing and transportation plans and, for those Service members with families, childcare, schools, and spouse employment. The DoD and interagency partners incorporated the warm handover requirement for any transitioning Service member who does not meet the CRS. The warm handover is meant to serve as an immediate bridge from DoD to the federal partners' staffs, which are committed to providing needed support, resources and services to Service members post separation in the communities to which the Service members are returning. The intention is to provide early intervention before Veterans encounter the challenges currently identified by some communities, e.g., financial struggles, unemployment, lack of social supports that can spiral down into homelessness, risk taking behaviors. Families and communities benefit.

The Task Force established expectations for program performance measures and outcomes. The redesigned TAP Interagency Executive Council and Senior Steering Group laid the preliminary groundwork to measure long-term program outcomes. While DoD is statutorily limited to measure outcomes while Service members are active duty, DoD performance measures are intended to demonstrate outcomes of the TAP redesign within DoD. These



include the verified number of Service members separated from active duty who meet “VOW Act” mandates and who meet CRS prior to separation. At the end of fiscal year 2015, based on the DD Form 2958 data received by the Defense Manpower Data Center, 93.9% of Service members separating from Active Duty met “VOW Act” requirements and 89% met CRS or received a warm handover to an appropriate partner agency.

These measures set the stage for future long-term measures when transitioning Service members become Veterans. The DoD’s TAP Information Technology (IT) architecture and data collection processes enable future data sharing with our Federal partners to show program effectiveness. The DoD requires the interagency support of its partners to further develop and collect data to define a relationship between TAP attendance, “VOW Act” compliance and CRS and long-term outcome measures, e.g. optimal use of Post 9/11 GI Bill benefits and long-term earnings of Post 9/11 Veterans.

### **Public Comments**

The Department of Defense published an interim final rule in the Federal Register titled “Transition Assistance Program (TAP) for Military Personnel” on November 30, 2015 (80 FR 74678-74694) for a 45-day public comment period. The Department of Defense received one public comment, which is addressed in this preamble.

**Comment:** The comment from the Students Veterans of America (SVA) addressed two specific areas: (1) SVA wants to gain access to military installations for current student veterans and SVA chapter leaders, and potentially chapter advisors, to act as liaisons to institutes of higher learning and trusted information intermediaries for current Service members considering whether higher education is their preferred path, and if so, what opportunities they should pursue; and (2) SVA believes they are strong subject matter experts to provide feedback on the current

Accessing Higher Education (AHE) curriculum and to help develop in-person or online training for base education advisors (EAs). Additionally, SVA wants to provide information about SVA chapters and peer support. SVA also requests to have the program implementation data updated for a more comprehensive picture of implementation of the AHE curriculum and they want to know the results of feedback mechanisms on the effectiveness of AHE's implementation. Finally, the SVA identifies several outstanding issues they want addressed concluding with its desire to have a SVA representative to the interagency curriculum working group.

SBA would like to have significant data to report and they want to make the data public, in order to better analyze what is working. They want to have top-line reporting on attendance and completion rate figures related to TAP and AHE. In addition, they want to know what barriers exist, and how those barriers may be addressed. SVA thinks there should be consideration of an assessment of the veterans' education readiness. Finally, SVA wants to know how decisions are being made by the interagency working group regarding TAP, as well as how policy disagreements are resolved between agencies, specifically on issues involving curriculum.

**Response:** The DoD is committed to providing military personnel from across the Services access to the TAP. The Secretary of Defense issued policy guidance and procedures in his memorandum, "Installation Access and Support Services to VA-Recognized Veteran Service Organizations/Military Service Organizations" dated December 23, 2014. The decision to provide access to military installations rests with local commanders. The SVA is encouraged to follow those procedures. The responsibility for acting as liaisons to institutes of higher learning falls under the purview of the Office of the Deputy Assistant Secretary of Defense for Force Education and Training. It does not fall under the purview of the TAP. SVA is encouraged to work with that office to pursue discussion regarding this issue.

The Department appreciates feedback from non-governmental external stakeholders. However, it must abide by law and policy when receiving any comments and conducting any interaction with any non-federal entity.

### **Retrospective Review**

This rule is part of DoD's retrospective plan, completed in August 2011, under Executive Order 13563, "Improving Regulation and Regulatory Review." DoD's full plan and updates can be accessed at

<http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR;rpp=10;po=0;D=DOD-2011-OS-0036>.

As required by Executive Order (EO) 13563, DoD intends to conduct periodic reviews along with its partner agencies to modify, or repeal, aspects, as appropriate, and after public notice and comment. DoD expects to conduct a review no later than five years from the publication of this final rule. With regard to a number of aspects of this rule, possible modifications will be considered based on public comments and related internal studies. DoD intends to synthesize and review available data to include publically available information on transition assistances related matters. For example, how many veterans use their Post-9/11 GI Bill, how many complete a degree, how long does it take a veteran to find employment following separation from the military? Following this, DoD may propose modifications to the current provisions of the existing rule.

### **Regulatory Procedures**

#### **Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"**

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that

maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated an “economically significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB) under the requirements of these Executive Orders.

#### **Congressional Review Act (5 U.S.C. 801)**

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of \$100 million or more or have certain other impacts. This final rule is a major rule under the Congressional Review Act.

#### **Sec. 202, Pub. L. 104-4, “Unfunded Mandates Reform Act”**

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately \$141 million. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

#### **Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601)**

The DoD certifies that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

## **Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)**

It has been determined that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980.

## **Executive Order 13132, “Federalism”**

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

## **List of Subjects in 32 CFR Part 88**

Employment, Military personnel.

Accordingly, the interim final rule published at 80 FR 74678-74694 on November 30, 2015, is adopted as a final rule with the following changes:

### **PART 88 – [AMENDED]**

1. The authority citation for part 88 continues to read as follows:

**Authority:** 10 U.S.C. Chapter 58.

2. Amend §88.3 by revising the definition of “Involuntary separation” to read as follows:

#### **§88.3 Definitions.**

\* \* \* \* \*

Involuntary separation. A Service member is considered to be involuntarily separated if the member was involuntarily discharged or denied reenlistment under other-than-adverse conditions (e.g., force shaping) pursuant to 10 U.S.C. 1141.

\* \* \* \* \*

3. Amend §88.5 by revising the introductory text for paragraphs (a), (c), (e), (f), and (j), and paragraph (j)(5) to read as follows:

**§88.5 Responsibilities.**

(a) Under the authority, direction, and control of the Under Secretary of Defense (Personnel and Readiness) (USD(P&R)), the Assistant Secretary of Defense for Readiness (ASD(R)):

\* \* \* \* \*

(c) Under the authority, direction, and control of the USD (P&R), the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD (M&RA)):

\* \* \* \* \*

(e) Under the authority, direction, and control of the (ASD(M&RA), the Deputy Assistant Secretary of Defense for Military Personnel Policy (DASD(MPP) provides:

\* \* \* \* \*

(f) Under the authority, direction, and control of the (ASD(R)), the Deputy Assistant Secretary of Defense for Force Education and Training (DASD(FE&T)):

\* \* \* \* \*

(j) Under the authority, direction, and control of the (ASD(R)), the Director, TVPO:

\* \* \* \* \*

(5) In conjunction with ASD(R), supports and coordinates meetings and activities for TAP governance bodies, as defined in §88.3;

\* \* \* \* \*

Dated: June 23, 2016.

Aaron Siegel,  
Alternate OSD Federal Register Liaison Officer, Department of Defense.  
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